

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 839, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF BITTERS.

On or about April 15, 1910, the Imperial Distilling and Cordial Company, a corporation, Chicago, Ill., shipped from the State of Illinois into the State of Minnesota a consignment of a drug product labeled: On bottle (in Italian and translated into English): "Fernet Branca of the Branca Bros. & Co., Milan No. 35 Broletto St., near the Church of St. Thomas. The goods possess the real and genuine process recognized and approved by various testimonials of teachers in the medical profession. Facilitates digestion, impedes the irritation of the nerves and excites in a marvelous manner the appetite. It is recommended to those suffering from intermittent fever and worms and has an astonishing effect on the bad feelings produced by the spleen, as well as sour stomach and headache caused by bad digestion and old age. Should be taken every hour. A spoonful of the liquid in two of water, good wine, coffee, etc. Increase the quantity when the effect is not promptly produced. To avoid imitations every label bears the firm name of Branca Brothers & Company, with its trade mark, and the dry tin top will be secured upon every bottle with another label carrying the same firm name. Fernet-Branca. Fili Branca-Milan (Italy) L. Gandolfi & C. New York. Sole importers for the United States, Mexico, Canada, Cuba and Porto Rico;" on circular: "A specialty of Fratelli Branca of Milan. For those hypochondriacs who generally suffer from nausea, vomiting, and wind, the use of Fernet-Branca is the real panacea . . . It causes the most obstinate vomit to cease, is an excellent antiseptic, cures disorders of the liver and milt, prevents and overcomes intermittent fevers, those arising from swamps and malaria, as well as gastric fevers . . . Fernet-Branca is especially powerful against

those ailments which precede the development of cholera, and in curing those indispositions which linger in persons who have recovered from the epidemic." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and the product was found to contain alcohol by volume 41.4 per cent, residue (nonvolatile) 3.71 grams per 100 cc, ash 0.05 gram per 100 cc, a resinlike body (a bitter principle). As the above analysis and report thereon showed that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the said Imperial Distilling and Cordial Company, Incorporated, and the party from whom the samples were procured opportunities for hearings. As it appeared after hearings held that the shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence upon which to base a prosecution.

In due course a criminal information was filed in the District Court of the United States for the Northern District of Illinois against the said Imperial Distilling and Cordial Company, Incorporated, charging the above shipment and alleging that the product so shipped was adulterated, in that a substance, to wit, imitation Fernet-Branca Bitters, had been mixed and packed with the said drug so as to reduce, lower, and injuriously affect its quality and strength, in that an imitation of Fernet-Branca Bitters had been substituted wholly or in part for said drug, and in that said drug had been colored with caramel in a manner whereby its inferiority was concealed. The information also alleged that the product was misbranded, in that it was an imitation of another article, to wit, Fernet-Branca Bitters; that it was offered for sale under the distinctive name of another article, to wit, Fernet-Branca Bitters; that the label upon the bottles and the circular accompanying same were imitations of the labels of another article, to wit, genuine Fernet-Branca Bitters, and that the labels upon the bottles containing said drug bore statements, designs, and devices regarding such article, and the ingredients and substances contained therein, which were false and misleading; that the labels upon the bottles containing the product aforesaid bore the statement (in Italian and translated into English): "Fernet-Branca of the Branca Brothers & Company, Milan No. 35 Broletto St., near the church of St. Thomas," which said statement purported to state that the drug was manufactured in Italy, and was false and misleading, in that the drug was not manufactured in Italy, but was made in the United States of America; that the labels upon the bottles containing the drug aforesaid failed to bear a statement thereon of the quantity or proportion of alcohol

contained therein, and that the labels upon the bottles containing the drug aforesaid were false and misleading, because they purported to state that the product was a foreign product, to wit, Fernet-Branca Bitters, made by the Branca Bros. & Co. in Milan, Italy, when, as a matter of fact, it was imitation bitters made in the United States and offered for sale under the distinctive name of another article, to wit, Fernet-Branca Bitters.

On December 10, 1910, the defendant entered a plea of not guilty, but subsequently, on February 2, 1911, withdrew the plea of not guilty and filed a plea of nolo contendere, whereupon the court imposed a fine of \$200 and costs.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *April 12, 1911.*